

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al,)

Defendants.)

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THE DEPOSITION OF JIM LANCE

PIGEON, produced as a witness on behalf of the
Plaintiff in the above styled and numbered cause,
taken on the 25th day of May, 2007, in the City of
West Siloam Springs, County of Delaware, State of
Oklahoma, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. Richard Garren
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Tulsa, OK 74119
-and-
Mr. Louis W. Bullock
Attorney at Law
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FOR TYSON FOODS:

Mr. Michael Bond
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FOR CARGILL:

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FOR SIMMONS FOODS:

Mr. Josh Wisely
Attorney at Law
211 East Dickson Street
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FOR PETERSON FARMS:

Mr. Philip D. Hixon
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Tulsa, OK 74103

FOR POULTRY PARTNERS:

Mr. D. Kenyon Williams
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1 FOR GEORGE'S:

Mr. Paul Thompson
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221 North College
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1 Q Generally speaking who has the day-to-day
2 operational control of your facility?

3 MR. BOND: Object to form.

4 A Myself.

5 Q And has that changed at any time during the 10:14AM
6 time you started until the time of today?

7 A No, it has not.

8 Q All right. Let's -- I want to talk about both
9 your Peterson farm relationship and your Tyson
10 relationship, if you would, and contrast the two of 10:14AM
11 those integrators, if you would, so I'm going to ask
12 you some questions along those lines. First off,
13 with regard to Peterson Farms, what portion of any
14 contract did you negotiate with them for terms?

15 A With Peterson Farms? 10:15AM

16 Q Yes, sir.

17 A There wasn't any terms negotiated in that
18 contract.

19 Q Okay. With regard to contracts with Tyson,
20 has there been any negotiation of any terms of 10:15AM
21 contracts you've signed with Tyson?

22 MR. BOND: Object to form.

23 A No, there have not.

24 Q All right. Do both Peterson Farms and Tyson
25 supply and deliver the birds to you? 10:15AM

1 Q Mr. Pigeon, my name is Michael Bond. I
2 represent Tyson Foods, Tyson Chicken, Tyson Poultry
3 and Cobb-Vantress in this case. I just have a few
4 questions for you. I will try not to use up any
5 more of your inside time today.

02:54PM

6 A Thank you.

7 Q With regards to your farm where your poultry
8 operation is at, who owns that farm?

9 A Who owns the farm where my poultry operation
10 is?

02:54PM

11 Q Yeah.

12 A I do.

13 Q Do you own everything on that farm?

14 A Everything as in --

15 Q Let me try to clarify that. You own the
16 poultry barns that are on that farm?

02:54PM

17 A Yes.

18 Q You own the equipment that you use on that
19 farm?

20 A Yes.

02:54PM

21 Q And is there a house on that farm?

22 A Yes.

23 Q You own that house?

24 A Yes.

25 Q Do you have the joy of owning all that free

02:54PM

1 and clear or do you have a lender involved?

2 A I still owe some money.

3 Q So somebody has a mortgage on that?

4 A Yes.

5 Q Okay, and is that mortgage holder a bank?

02:55PM

6 A Yes.

7 Q Is that bank in any way affiliated with Tyson

8 Foods?

9 MR. GARREN: Object to the form, lack of

10 predicate.

02:55PM

11 Q Who is the bank?

12 A Arvest Bank.

13 Q Okay. I'm assuming that you generate an

14 electricity bill from your poultry operations?

15 A Yes.

02:55PM

16 Q Who pays that electricity bill?

17 A I do.

18 Q And I think you testified before that you

19 don't have any employees that work on your farm?

20 A That's correct.

02:55PM

21 Q Okay. Have you ever had any employees work on

22 your farm?

23 A I have had on very few occasions.

24 Q Okay, and on those few occasions did you hire

25 that person to work on your farm?

02:56PM

1 Q So he explained the plan to you?

2 A From what I remember, yes.

3 Q Okay. Let's take a look at Page 248 in

4 Exhibit 2, and this is the grower production manual

5 that you talked about with Mr. Garren, Tyson broiler

03:04PM

6 production manual; correct?

7 A Yes.

8 Q And on Page 250 Bates number, the second

9 paragraph, if you'll recall Mr. Garren had you read

10 or he read to you the first sentence of that; do you

03:05PM

11 recall that?

12 A I think I remember reading that.

13 Q Okay. If you wouldn't mind, could you read

14 into the Record the second sentence starting with

15 the word aside?

03:05PM

16 A Aside from your contractual obligations, how

17 you manage and run your farm is your decision.

18 Q Do you agree with that statement?

19 A Yes, I do.

20 Q Would you read the next sentence?

03:05PM

21 A Tyson will provide technical advice and other

22 forms of assistance.

23 Q Do they do that?

24 A Yes, they do.

25 Q And can you read the next sentence?

03:05PM

1 A Ultimately, however, you are in control and
2 responsible for your farming operation.

3 Q And do you agree with that?

4 A 100 percent.

5 Q Okay.

03:06PM

6 MR. BOND: I have no further questions.

7 Thank you.

8 CROSS EXAMINATION

9 BY MR. HIXON:

10 Q My name is Philip Hixon and I represent

03:06PM

11 Peterson Farms. While you're at Pigeon 250, I

12 realize this is Tyson's broiler production manual

13 but these statements that you just read, would any

14 of these be different for Peterson Farms?

15 MR. GARREN: Object to the form.

03:06PM

16 A I can't say 100 percent.

17 Q When I say that, let me clarify. What I'm

18 asking is, when you were contracting with Peterson

19 Farms to grow chickens for Peterson Farms, you were

20 ultimately responsible for the production on your

03:06PM

21 farm?

22 A Yes.

23 MR. GARREN: Object to the form as leading.

24 Q When you were growing for Peterson, did

25 Peterson ever tell you when or how to clean out your

03:06PM

1 house, your houses?

2 A No, they did not.

3 Q Did they tell you when to apply your litter?

4 A No, they did not.

5 Q Or where to apply your litter?

03:07PM

6 A No.

7 Q Did they instruct you to sell your litter?

8 A No.

9 Q Did they instruct you you could not sell your
10 litter?

03:07PM

11 A No.

12 Q I believe that you testified earlier that you
13 did get some minimum specifications for your poultry
14 house from Peterson; is that correct?

15 A Yes.

03:07PM

16 Q I also believe you testified that you built
17 your house, houses beyond those specifications?

18 A Yes.

19 Q Did you go beyond those specifications at the
20 request of Peterson?

03:07PM

21 A No.

22 Q That was your decision to build above the
23 minimum specifications?

24 A Yes, it was.

25 Q And was that more expensive to build beyond

03:07PM

1 the minimum specifications?

2 A Very much so.

3 Q Did Peterson reimburse you for any of that?

4 A Only through grower pay.

5 Q For increased production?

03:07PM

6 A For increased production.

7 Q And the reasons you went beyond the minimum

8 specifications was for production purposes?

9 A Yes.

10 Q Okay. We talked about John Littlefield. You

03:08PM

11 testified that he is your ODAFF inspector?

12 A Yes.

13 Q What does Mr. Littlefield do as your

14 inspector, poultry inspector?

15 A Typically on an annual basis he makes a visit

03:08PM

16 with me to inspect my records.

17 Q What records does he inspect?

18 A That's my litter application records.

19 Q Would that be some of the same records we've

20 looked at today?

03:08PM

21 A Yes, they would be.

22 Q I also understood you changed your soil

23 sampling technique after counseling with Mr.

24 Littlefield; is that correct?

25 A It wasn't necessarily his advice but it was in

03:09PM